

REMARKS/ARGUMENTS

The arguments and amendments presented herein include the arguments and amendments Applicants discussed with the Examiner during phone interview dated May 28, 2009. The Examiner requested Applicants to submit the discussed arguments and amendments for reconsideration, which Applicants present herein. Applicants submit that the arguments and amendments presented herein make the substance of the phone interview of record to comply with 37 CFR 1.133. If the Examiner believes that further information on the interview needs to be made of record to comply with the requirements, Applicants request the Examiner to identify such further information.

During the phone interview, the Examiner said that the written description rejection under 35 U.S.C. §112, par. 1 is no longer part of the rejection notwithstanding the apparent reference to the Section 112, par. 1 rejection in the Response to Arguments. (OA3, pgs. 2-3)

1. Amended Claims Comply With 35 U.S.C. §112, par. 2

The Examiner rejected claim 1 as indefinite (35 U.S.C. §112, par. 2) on the grounds the statement “synchronizing with local license related data...” is unclear as to whether the available content usage is updated when the license is updated. (FOA, pg. 4) During the phone interview, the Examiner mentioned clarifying the relation of the license status and availability of the content usage to overcome this rejection. Applicants amend claim 1 as shown below to address these concerns and overcome the Section 112 rejection.

Amended claim 1 recites a method for providing of content data to a client, comprising: receiving a selection of content data from the client; generating a file comprising license information and a locator for the content data, wherein the license information indicates a license status enabling the client to access the content data, wherein the license status indicates available content usage, wherein the available content usage indicates an amount of the content available to the client; sending of the file to the client; and synchronizing with local license related data on the client indicating an updated license status comprising the available content usage included in the file sent to the client reduced, at the client, by an amount of actual client usage of the content data at the client following the sending of the file to the client and before the synchronizing.

Applicants amended claim 1 to recite that the available content usage in the file indicates an amount of the content available to the client according to a scope of a license and that the

updated license status comprises the available content usage included in the file sent to the client reduced, at the client, by an amount of actual client usage of the content data at the client following the sending of the file to the client and before the synchronizing. These clarifications are disclosed in at least pg. 8 and 12 of the Specification (Published as WO2004057445).

Applicants submit that this amendment overcomes the indefiniteness rejection by clarifying the meaning of the “available content usage in the file indicates an amount of the content available to the client according to a scope of a license” and that the “updated license status” comprises the “available content usage reduced, at the client, by an amount of actual client usage of the content data at the client following the sending of the file to the client and before the synchronizing”.

Applicants submit that this amendment clarifies the relationship of the available content usage and the updated license status and overcomes the indefiniteness rejection of claim.

The Examiner rejected claim 39 as indefinite because it is unclear how there is any usage when there is no more available content usage. (FOA, pg. 4) Applicants amend claim 39 to recite that the “actual client usage of the content data at the client includes actual content usage occurring after the license status is expired at the client when there is no more available content usage.” This clarification is disclosed on at least pgs. 10-11 of the Specification.

Applicants note that p. 10 of the specification discloses how a user may continue to use the content data even after the original license has been exhausted provided the amount of usage after expiration of the original license is tracked and stored in the license database for later payment. Thus, the Specification discloses that the user may continue to use the content data even after the expiration of the original license. The claims recite this requirement by specifying that the actual client usage of the content data includes usage occurring after the license status is expired.

Applicants submit that the amendments to claim 39 overcome the indefiniteness rejection.

2. Claims 1, 2, 16, 17, 39, 40, 45, and 46 are Patentable Over the Cited Art

The Examiner rejected claims 1, 2, 16, 17, 39, 40, 45, and 46 as obvious (35 U.S.C. §103) over Remer (U.S. Patent App. Pub. No. 2003/0088516) and Aburri (U.S. Patent No. 7,203,966) Applicants traverse.

Amended claim 1 recites a method for providing of content data to a client, comprising: receiving a selection of content data from the client; generating a file comprising license information and a locator for the content data, wherein the license information indicates a license status enabling the client to access the content data, wherein the license status indicates available content usage, wherein the available content usage indicates an amount of the content available to the client according to a scope of a license; sending of the file to the client; and synchronizing with local license related data on the client indicating an updated license status comprising available content usage included in the file sent to the client reduced, at the client, by an amount of actual client usage of the content data at the client following the sending of the file to the client and before the synchronizing.

Applicants amend claim 1 as discussed during the phone interview to clarify the claim elements of available content usage and updated license status.

The Examiner cited col. 3, lines 5-15, col. 17, lines 55-69, and col. 58, lines 35-50 of Aburri as teaching the pre-amended synchronizing limitation (FOA, pgs. 6-7), which now recites synchronizing with local license related data on the client indicating an updated license status comprising the available content usage included in the file sent to the client reduced, at the client, by an amount of actual client usage of the content data at the client following the sending of the file to the client and before the synchronizing.

The cited col. 3 mentions a decryption key and a description of the rights conferred by the license and related conditions. The user cannot decrypt and render the encrypted digital content without obtaining a license from the license server. The cited col. 17 mentions that a license stores licenses received by the digital rights management (DRM) system. The license store may be a subdirectory of a drive such as a hard disk or network drive. This license store 38 is in the user's computing device, and an enforcement architecture in the user computing device 14 specifies license rules that must be satisfied before digital content can be rendered. (Aburri, col. 6, lines 40-56). The cited col. 58 mentions that copies of the license sent to the registered devices are set to decay by having a short term expiration even if the original license has a long term to ensure periodic contact with the license synchronization server to update expiration date.

Nowhere does cited Aburri teach or suggest synchronizing with local license related data on the client indicating an updated license status comprising the available content usage reduced,

at the client, by an amount of actual client usage of the content data at the client following the sending of the file to the client and before the synchronizing. Instead, Aburri mentions that that the registered devices needs periodic contact with the license synchronization server to update the expiration date. Nowhere does this teach or suggest synchronizing with the client to obtain updated license status comprising available content in the initial file reduced by actual client usage. In fact, Aburri teaches away from this requirement because in Aburri the license has an expiration date, expiry date, and would have no need to keep track of an updated license status resulting from subtracting actual client usage from the initial available content usage in the file. Aburri's license expires based on the date, not on the actual client usage. Thus, Aburri's technique for requiring periodic updating of the expiration date by setting a short term expiration date teaches away from the claim requirement of synchronizing with an updated license status comprising the available content in the file initially sent to the client reduced by actual client usage between the time the file was sent and the synchronizing.

Accordingly, amended claim 1 is patentable over the cited art because the cited combination of Remer and Aburri do not teach or suggest the requirements of these claims.

Claims 2, 16, 17, 39, 40, 45, and 46 are patentable over the cited art because they depend from claim 1, which is patentable over the cited art for the reasons discussed above. Moreover, the following discussed dependent claims provide additional grounds of patentability over the cited art.

Amended claim 39 depends from claim 1 and further requires that the actual client usage of the content data at the client includes actual content usage occurring after the license status is expired at the client when there is no more available content usage.

The Examiner cited cols. 63-64 of Aburri as disclosing the additional requirements of claim 39. (FOA, pg. 9) Applicants traverse.

The cited paras. 63-64 mention that a license may expire because the end of the time period for the license has been reached. Further, a license may expire if the user does not connect and synchronize with the license synchronization server before the expiry date. A copy/replacement license may be refreshed and the expired copy/replacement license will be deleted and replaced with an identical license having a later expiry date. When a device expires, the device is removed from the active device list.

Nowhere do the cited cols. 63-64 teach or suggest that the actual client usage that is reduced from the available content usage indicated in the file includes actual content usage occurring after the license status is expired at the client when there is no more available content usage.

Instead, the cited cols. 63-64 discuss how a license may expire and be refreshed. There is no mention or teaching in the cited Aburri of keeping track of an amount of client usage of the content data at the client after the license status is expired when there is no more available content usage. In fact, Aburri teaches away from this requirement because Aburri describes that the license expires after an expiry date, not after an amount of usage or that the amount of actual client usage can exceed the available content usage provided in the scope of the license, i.e., the user may continue to use content even after the license expires.

Accordingly, amended claim 39 provides additional grounds of patentability over the cited Remer and Aburri because the cited parts of these references do not teach or suggest all the claim requirements.

Claim 40 depends from claim 1 and further requires that during synchronization, determining the amount of usage of the content data at the client after the license status is expired at the client and receiving payment for the amount of usage of the content data after the license status is expired, wherein the synchronizing with the local license related data comprises renewing the local license related data to allow continued use of the content data in response to receiving the payment for the amount of usage.

The Examiner cited the above discussed cols. 63-64 of Aburri, which discusses how a license may expire and be refreshed. (FOA, pg. 10) There is no teaching or suggestion in the cited Aburri of determining the amount of usage during synchronization with local license related data and receiving payment for usage after the license has expired. Instead, the cited Aburri discusses using an expiration date to end a license and require renewal with the synchronization server. There is no teaching or suggestion of determining actual usage after a license for the content data being used has expired and then receiving payment for use of content after the amount of actual client usage exceeds the available content usage of the license.

Accordingly, claim 40 provides additional grounds of patentability over the cited art because the cited combination of Remer and Aburri do not teach or suggest all the claim requirements.

3. Added Claims 47-62

Added claims 47-54 include the requirements of pending claims 1, 2, 16, 17, 39, 40, 45, and 46 in server form. The preamble of claim 47 comprises the preamble of claim 28 presented in the Preliminary Amendment filed with the National Stage Application on June 15, 2005.

Added claims 55-62 include the requirements of pending claims 1, 2, 16, 17, 39, 40, 45, and 46 in server form. The preamble of claim 55 is disclosed in the preamble of claim 10 in the PCT Application published as WO2004/057446 from which the present application was filed as a national stage application.

Claims 47-62 are patentable over the cited art for the reasons discussed with respect to pending claims 1, 2, 16, 17, 39, 40, 45, and 46.

Conclusion

For all the above reasons, Applicant submits that the pending claims 1, 2, 10, 16, 17, and 41-62 are patentable. Should any additional fees be required beyond those paid, please charge Deposit Account No. 09-0460.

The attorney of record invites the Examiner to contact him at (310) 553-7977 if the Examiner believes such contact would advance the prosecution of the case.

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